

# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,406	05/11/2001	Kenneth Shafer	4981*0318	6964
23416 7	590 08/06/2002			
CONNOLLY BOVE LODGE & HUTZ, LLP			EXAMINER	
1220 N MARK P O BOX 2207		LOPEZ, CARLOS N		
WILMINGTON, DE 19899				
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			1731	
			DATE MAILED: 08/06/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.   Shapicant(s)   Sha			55				
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALIKNO DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.35(o). In no event, however, may a reply be timely filled  If the period for reply a specified above, the maximum statistical period will period with the destination of the reply as period does under the provisions of 37 CFR 1.35(o). In no event, however, may a reply be timely filled  If the period for reply aspecified above, the maximum statistical period will period will deply and will segons SX (6) MONTH from the making date of this communication of the reply aspecified above, the maximum statistical period will apply and will segons SX (6) MONTH from the making date of this communication of the reply aspecified above, the maximum statistical period will apply and will supple SX (6) MONTH from the specified period will be statistically period will be statistically reply and will supplicate the period of the communication. Any reply residue is the statistic period will be statistically reply and will supplicate the period of the communication. Any reply residue is the supplication is will be statistically period will supplicate the maximum statistic period will be statistically reply and will supplicate the maximum statistic period will be statistically reply and will supplicate them adjustment. Set 37 CFR 1.70(4).  Status  1) Responsive to communication(s) filled on 09 May 2002.  2a) This action is FINAL. 2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-18 is/are pending in the application.  4a) Of the above claim(s) 1-9 and 13 is/are withdrawn from consideration.  5b) Claim(s) 1-18 is/are allowed.  5c) Claim(s) 1-18 is/are allowed.  5c) Claim(s) 1-18 is/are allowed.  6c) Claim(s) 1-18 is/ar		Application No.	Applicant(s)				
Carlos Lopez   1731  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ② MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  If the MAILING DATE OF THIS COMMUNICATION.  If the period for reply specified down is less than thirty (30) stays, a reply within the statulory minimum of thirty (30) stays will be considered timely.  If the period for reply specified down is less than thirty (30) stays, a reply within the statulory minimum of thirty (30) stays will be considered timely.  If the period for reply specified down is less than thirty (30) stays, a reply within the statulory minimum of thirty (30) stays will be considered timely.  If the period for reply specified down is less than thirty (30) stays, a reply with the statulory minimum of thirty (30) stays will be considered timely.  If the period for reply specified down is less than thirty (30) stays will be considered timely.  If the period for reply specified stays is the statulory period will appear with the practice of the communication, even if timely filed, may reduce any search grained time disjunction.  A price this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  Application is disjunction in the application.  4) Claim(s)		09/853,406	SHAFER ET AL.				
- The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions from may be available under the provisions of 3 CFR 1.136(a). In or evert, however, may a reply be timely filled  Extension from may be available under the provisions of 3 CFR 1.136(a). In or evert, however, may a reply be timely filled  Extension from may be available under the provisions of 3 CFR 1.136(a). In or evert, however, may a reply be timely filled  If the period for reply specified above its test ban thirty (30) days, a reply with the statutory minimum of thirty (30) days will be considered timely.  If the period for reply is period sow, the maniform databoxy period vallegage and vall expires 30% (MONTHS from the malling date of this communication.  Fill period for reply is period sow, the maniform databoxy service and application to become ADM-ONED (30 U.S. C. \$13.5).  Responsive to communication(s) filled on 09 May 2002.  This action is FINAL.  2b □ This action is non-final.  3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is observed in accordance with the practice under Ex partie Queyle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4 □ Claim(s) 1.2 [s/are pending in the application.  4 □ Claim(s) 1.5 [s/are allowed.  5 □ Claim(s) 1.5 [s/are allowed.  6 □ Claim(s) 1.5 [s/are allowed.  7 □ Claim(s) 1.5 [s/are allowed.  10 □ The drawing(s) filled on 1.5 [s/are: a]□ accepted or b □ objected to by the Examiner.  Application Papers  9 □ The specification is objected to by the Examiner.  If approved, corrected drawing correction filed on 1.5 [s/are: a]□ accepted or b □ objected to by the Examiner.  If approved corrected drawing correction filed on 1.5 [s/are: a]□ approved b □ disapproved by the Examiner.  If approved corrected drawing are required in reply to this Office action.  12 □ The pro	Office Action Summary	Examiner	Art Unit				
Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  ***IN PROVIDED TO THE COMMUNICATION.**  ***IN PROVIDED TO THE STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**  **IN PROVIDED TO THE STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**  **IN PROVIDED TO THE STATUTORY PERIOD FOR THE STATUTORY OF THE MAILING DATE OF THE MAI		<u> </u>					
THE MAILING DATE OF THIS COMMUNICATION.  Editariosis of time mybe available under the provisions of 37 cPts. 135(a), his no event, however, may a reply be timely filed after SX (6) MONTHS from the mailing date of the communication.  It No period for exply is specified because of 2 cPts. 135(a), his no event, however, may a reply be timely filed after SX (6) MONTHS from the mailing date of the communication.  It No period for exply is specified above, the maximum studency period with the part of the communication.  Fallow to reply within the set or extended period for reply will, by studency and the provision of the communication.  Fallow to reply within the set of redended period for reply will, by studency and the provision of the communication, even if timely filed, may reduce any and provision of the communication.  Fallow to reply within the set of redended period for reply will, by studency and the communication.  Fallow to reply within the set of communication of the communication, even if timely filed, may reduce any states and the communication of the communication.  Fallow to reply within the set of calculation of the communication.  Status  I) Seeponsive to communication (s) filed on <u>09 May 2002</u> .  2a) This action is FINAL.  2b) This action is round the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-16 is/are pending in the application.  4a) Of the above claim(s) 1-9 and 13 is/are withdrawn from consideration.  5) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  6) Claim(s) is/are allowed.  7) Claim(s) is/are allowed.  8) The proposed drawing is are studied to expand the proposed drawing is a state of the communication.  8) The drawing(s) filed on is/are allowed.  10) The drawing(s) filed on is/are allowed.  11) The drawing(s) filed on is/are allowed.  12) The oath or declaration is objected to by the Examiner.  13							
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3	1) Responsive to communication(s) filed on <u>09 h</u>	<u> 1ay 2002</u> .					
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5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 7) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement.  Application Papers 9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). 11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action. 12) The oath or declaration is objected to by the Examiner.  Priority under 35 U.S.C. §§ 119 and 120  13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some col None of:  1. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received.  14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). a) The translation of the foreign language provisional application has been received.  15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.  Attachment(s)    Motice of References Cited (PTO-992)	• • • • • • • • • • • • • • • • • • • •						
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#### **DETAILED ACTION**

#### Election/Restrictions

Applicant's election with traverse of claims 10-12 and 14-16 in Paper No. 4 is acknowledged. The traversal is on the ground(s) claims are closely related and that similar issues of claims in Group Group II and I must be addressed in determining its patentablity. This is not found persuasive because the smoking products claimed in Group I do not necessitate a determination of rod location wherein a smoke constituent is maximized. Furthermore, the traversal of the election of species is moot. Applicant has elected group II that exclude the species restriction.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-9 and 13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 4.

# Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1) Claims 10-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 10, "the target smoke constituent" lacks antecedent basis.

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### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2) Claims 10-11and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Sanford et al (US 3,667,479). Sanford et al determined that smoke constituent is increases/maximized as the cigarette is smoke from the tip end to the butt end (Column 1, and Figure 11). Stanford then applies an inhibitor/attenuator at 1/3 to 2/3 portion closest to the butt end of the cigarette (Column 1, lines 44-46). As for claims 11,15-16, the smoke constituents are combustions by-products that include aldehydes such as formaldehyde.

### Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3) Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanford et al (US 3,667,479) as applied to claim 10 above, and further in view of Fournier et al (US 6,289,898). Claim 12 additionally recites the inhibitor/attenuator being ammonium bicarbonate. Sanford is silent disclosing inhibitors/attenuators such as ammonium

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bicarbonate. However, Fournier et al teaches of using ammonium containing compound filler for tobacco wrappers to reduce aldehydes in tobacco smoke (Column 2, lines 25-35). As shown by Fournier et al, ammonium-containing compound are a result effective-variable to reduce aldehyde content of smoke. At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have conducted routine experiments to determine the most effective aldehyde reducing ammonium compound as an obvious optimization of a result-effective variable to reduce aldehyde content of smoke.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is (703) 605-1174. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

STEVEN P. GRIFFIN SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 1700

C.L August 2, 2002